



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,920	05/09/2001	John E. Litz	06160-1-P59A	3707

34947 7590 06/20/2003
BAYER CHEMICALS CORPORATION
100 BAYER ROAD
PITTSBURGH, PA 15205

EXAMINER

BOS, STEVEN J

ART UNIT	PAPER NUMBER
----------	--------------

1754

6

DATE MAILED: 06/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/851,920

Applicant(s)

Litz et al

Examiner

Steven Bos

Art Unit

1754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on May 5, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above, claim(s) 12-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-14 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other: _____

Art Unit: 1754

Applicant's election without traverse of claims 1-11 in Paper No. 5 is acknowledged.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5,6,8,9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "high excess sulfuric acid" in claim 5 is a relative term which renders the claim indefinite. The term "high excess sulfuric acid" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

The term "high ferric iron level" in claim 6 is a relative term which renders the claim indefinite. The term "high ferric iron level" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

In claim 5, "relatively high excess sulfuric acid level" is indefinite as to what it is relative to.

In claim 6, "relatively high ferric iron level" is indefinite as to what it is relative to.

Art Unit: 1754

In claim 8, "determining an approximation of the amount of soluble molybdenum" is indefinite as to what the soluble molybdenum is determined in; ie. the soluble molybdenum in what is determined? Is it the concentrate or the leach slurry or something else?

In claim 8, it is indefinite as to what is considered to be an "approximation".

In claim 9, "the determining step" lack(s) proper antecedent basis in the claim(s).

In claim 9, "monitoring concentrate analysis, recycle solution analysis" is indefinite as to what the positive process steps of each of the "analysis" are. It is also indefinite as to what the metes and bounds of the "accomplished by" language is.

In claim 9, "recycle solution" lack(s) proper antecedent basis in the claim(s). There is no solution being recycled in the process.

In claim 9, "pulp density" is indefinite as to what this refers to; ie. pulp density of what?

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sweetser '151 or Barry '888.

Art Unit: 1754

Sweetser and Barry each teach or at least suggest the instantly claimed process but may differ in that regulating the ferric and sulfuric acid concentration may not be stated.

Each of the taught processes oxidizes an aqueous slurry of molybdenite at the instantly claimed temperature and oxygen pressure so that the instantly claimed "regulating" recitation would appear to be inherently included in the taught process. This is because each of the taught processes forms sulfuric acid and molybdenite contains iron which would form ferric ion during the oxidizing process. Therefore the taught processes would self regulate the ferric iron and the sulfuric acid content during the oxidation reaction.

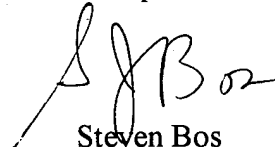
The subject matter as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to have selected the overlapping portion of the range disclosed by the reference because overlapping ranges have been held to be a prima facie case of obviousness, *In re Malagari*, 182 USPQ 549.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Bos whose telephone number is (703) 308-2537. The examiner is on the increased flexitime program schedule and can normally be reached between 8AM and 6PM Monday through Friday. The FAX No. for After Final amendments is 703-872-9311; for all

Art Unit: 1754

others it is 703-872-9310. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, appearing to read 'SJB 02', is positioned above the printed name.

Steven Bos
Primary Examiner
Art Unit 1754